



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA-2021-0010]

Notice of Availability of Final Initial Updated Policy Guidance for the Capital Investment Grants Program

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of Availability of Final Initial Updated Capital Investment Grants Program Policy Guidance.

SUMMARY: The Federal Transit Administration (FTA) is making available, on its website and in the docket, final initial updates to the Capital Investment Grants (CIG) program policy guidance. These revisions amend FTA’s CIG Final Interim Policy Guidance last published in June 2016 to reflect changes made to the program by the Infrastructure Investment and Jobs Act (IIJA) , also known as the “Bipartisan Infrastructure Law”. In March 2022, FTA published initial guidance proposals for implementing changes made to the CIG program by the IIJA for public comment. FTA appreciates the thoughtful comments received and has incorporated some of the suggestions into the initial updated CIG program policy guidance. FTA is placing formal responses to the comments received in the docket. This policy guidance continues to complement FTA’s regulations that govern the CIG program.

DATES: This final initial guidance is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366-5159 or Elizabeth.Day@dot.gov.

SUPPLEMENTARY INFORMATION: This final initial guidance document contains binding obligations, which 49 U.S.C. 5334(k) defines as “a substantive policy statement,

rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.” Under 49 U.S.C. 5334(k), FTA may issue binding obligations if it follows notice and comment rulemaking procedures under 5 U.S.C. 553. Prior to making the amendments announced today, FTA followed such procedures. The policy guidance that FTA periodically issues for the CIG program complements the FTA regulations that govern the CIG program, codified at 49 CFR part 611. The regulations set forth the process that grant applicants must follow to be considered for discretionary funding under the CIG program, and the procedures and criteria FTA uses to rate and evaluate projects to determine their eligibility for discretionary CIG program funding. The policy guidance provides a greater level of detail about the methods FTA uses and the sequential steps a sponsor must follow in developing a project.

In March 2022, FTA sought comment on three initial proposed changes to FTA’s CIG Final Interim Policy Guidance last issued in June 2016 (87 FR 14612). The three proposals were related to changes made by the IIJA to 49 U.S.C. 5309 and included: eligibility as a Core Capacity project; how FTA will determine that a CIG project sponsor has demonstrated progress on meeting Transit Asset Management and State of Good Repair targets; and how bundles of CIG projects can enter the Project Development phase of the program. The initial updated CIG program policy guidance is being made available today on the agency’s public Web site at <https://www.transit.dot.gov/funding/grant-programs/capital-investments/capital-investment-grants-program-regulations-guidance>, and in the docket at <https://www.regulations.gov/docket/FTA-2021-0010/>. Additionally, FTA’s response to the comments received on the initial proposed changes are available in the docket. No other changes are being made to the CIG program policy guidance at this time. FTA intends to propose a more comprehensive update of the CIG program policy guidance for

notice and comment in the future. That proposed update will incorporate feedback FTA received in response to its Request for Information published in the *Federal Register* in July 2021 (86 FR 37402). The three topics covered in the final initial updated CIG program policy guidance are intended to assist FTA in managing the CIG program in the near term while the more comprehensive CIG program policy guidance changes are developed and proposed.

Nuria I. Fernandez,

Administrator.

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